

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

IN RE:

Alnita Tillman

Debtor

Case No.: 15-40372
 Chapter: 13
 Hearing Date: 1/28/16

Judge Janet S. Baer

NOTICE OF MOTION

TO: Tom Vaughn, Chapter 13 Trustee, 55 E. Monroe Street, Suite 3850, Chicago, IL 60603 by electronic notice through ECF
 Alnita Tillman, Debtor, 9548 S. Emerald Avenue, Chicago, IL 60628
 Penelope N Bach, Attorney for Debtor, 900 Jorie Boulevard Suite 150, Oak Brook, IL by electronic notice through ECF

PLEASE TAKE NOTICE that on January 28, 2016, at 9:30AM, or as soon thereafter as counsel may be heard, I shall appear before the Honorable Judge Janet S. Baer, Bankruptcy Judge, in the courtroom usually occupied by him/her at the Everett McKinley Dirksen Building, 219 South Dearborn, Chicago, Illinois, room 615, or before any other Bankruptcy Judge who may be sitting in his/her place and stead, and shall then and there present this Motion of the undersigned, a copy of which is attached hereto and herewith served upon you, and shall pray for the entry of an Order in compliance therewith, at which time you may appear is you so desire.

PROOF OF SERVICE

The undersigned, an attorney, hereby certifies that I have served a copy of this Notice along with the attached Motion upon the parties listed above, as to the Trustee and Debtor's attorney via electronic notice on January 15, 2016 and as to the debtor by causing same to be mailed in a properly addressed envelope, postage prepaid, from 7140 Monroe Street, Willowbrook, IL 60527 before the hour of 5:00 PM on January 15, 2016.

/s/ Peter C. Bastianen
 Attorney for Movant

Berton J. Maley ARDC#6209399
 Rachael A. Stokas ARDC#6276349
 Gloria C. Tsotsos ARDC#6274279
 Jose G. Moreno ARDC#6229900
 Peter C. Bastianen ARDC#6244346
 Joel P. Fonferko ARDC#6276490
Codilis & Associates, P.C.
 15W030 North Frontage Road, Suite 100
 Burr Ridge, IL 60527
 (630) 794-5300
C&A FILE (14-15-18752)

NOTE: This law firm is a debt collector.

CERTIFICATE OF SERVICE

The undersigned, an attorney, hereby certifies that I have served a copy of this Notice along with the attached Motion upon the parties listed below, as to the Trustee and Debtor's attorney via electronic notice on January 15, 2016 and as to the debtor by causing same to be mailed in a properly addressed envelope, postage prepaid, from 7140 Monroe Street, Willowbrook, IL 60527 before the hour of 5:00 PM on January 15, 2016.

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/s/ Peter C. Bastianen
Attorney for Movant

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MOTION FOR RELIEF FROM THE AUTOMATIC STAY

NOW COMES CIT BANK, N.A. (hereinafter "Movant"), by and through its attorneys, Codilis & Associates, P.C., and moves this Honorable Court pursuant to 11 U.S.C. §362(d) for an Order granting Movant relief from the automatic stay, and in support thereof states as follows:

1. This Court has jurisdiction pursuant to 28 U.S.C. §1334 and Internal Operating Procedure 15(a) of the United States District Court for the Northern District of Illinois, Eastern Division;
2. On November 18, 2005, an individual named Willie Mae Briggs ("Borrower") signed a note and reverse mortgage ("Loan") in favor of Movant encumbering the property commonly known as 9548 S. Emerald Avenue, Chicago, Illinois 60628 ("Subject Property");
3. On May 10, 2014, the Borrower died;
4. On November 25, 2015, the Debtor filed this case, staying Movant's security interest automatically by operation of 11 U.S.C. §362 of the Bankruptcy Code;
5. The Debtor may have an interest in the Subject Property because she is an heir of the Borrower;
6. The Debtor occupies the Subject Property as her primary residence;

7. Movant intends to file a proof of claim for the full balance due when this case was filed in the estimated amount of \$121,932.74;

8. Section E.3.1 of the Debtor's proposed Chapter 13 plan provides to bifurcate Movant's claim into a secured claim in the amount of \$30,400.00 based on the alleged value of the Subject Property, payable with interest at 4.25%, with the balance of Movant's claim to be paid as a general unsecured claim;

9. Movant is entitled to relief from the automatic stay under 11 U.S.C. §362(d) for the following reasons:

- a) Upon the death of Willie Mae Briggs, the Loan was accelerated pursuant to the terms of the note and mortgage, so the entire balance in is immediately due and payable in a lump sum;
- b) The Debtor did not sign the note or the mortgage so she is not in contractual privity with the Movant and therefore cannot provide for Movant's claim in her plan;
- c) Even if the plan could provide for Movant's claim, the proposed treatment is impermissible because:
 - i. Movants claim is secured only by real property that is the Debtor's principal residence, so the proposed plan modifies the terms of a home mortgage in violation of 11 U.S.C. §1322(b)(2) and/or (b)(5);
- d) Accordingly, Movant is not adequately protected;

10. This Court has authority to order that Rule 4001(a)(3) is not applicable to the order entered in granting this motion, and Movant requests this Court so order;

11. Movant has incurred attorney fees and/or costs in connection with this bankruptcy proceeding

\$850.00 for Preparation of Notice and Motion for Relief from the Automatic Stay, and prosecution of same;
\$176.00 for Court filing fee;

WHEREFORE, CIT BANK, N.A. prays this Court enter an Order pursuant to 11 U.S.C. Section 362(d) modifying the automatic stay as to Movant and for such other and further relief as this Court may deem just and proper.

Dated this January 15, 2016.

Respectfully Submitted,
Codilis & Associates, P.C.

By: /s/ Peter C. Bastianen

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